

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

IN RE:

AYANA IVANETTE SPRINGFIELD,
PLAINTIFF/DEBTOR,

CASE NO. 18-27643-L
CHAPTER 13

V.

ADV. NO.

CARVANA, LLC,
DEFENDANT/CREDITOR.

COMPLAINT FOR CONTEMPT OF COURT AND REQUEST FOR SANCTIONS

Comes now the above named Plaintiff, and files this Complaint for Contempt of Court and Request for Sanctions pursuant to Rule 7001 of the Bankruptcy Rules of Procedure, and would state:

1. Plaintiff alleges that (1) this adversary proceeding relates to the petition filed by Debtor pursuant to Chapter 13 of Title 11 of the United States Code on September 12, 2018, in the United States Bankruptcy Court for the Western District of Tennessee, Western Division in Case Number 18-27643-L; and (2) this Adversary Proceeding is a core proceeding over which this Court has jurisdiction pursuant to 28 U.S.C. 157(b)(2) and 28 U.S.C. 1334.

2. Prior to the filing of this bankruptcy case, Plaintiff purchased a 2016 Honda Accord from the Defendant.

4. During the life of the plan, said vehicle was involved in an auto accident on September 21, 2018 and declared a total loss.

5. USAA Insurance forwarded proceeds in the amount of \$ 25,257.18, to the Defendant.

8. An Order Granting Motion for Substitution of Collateral was entered on November 14, 2018, directing Defendant to cooperate with Plaintiff to carry out the substitution.

8. As of this date, the Defendant has failed to effectuate the order, as Plaintiff is not in possession of replacement vehicle.

9. Plaintiff's attorney has attempted on many occasions to resolve this matter with Defendant, but Plaintiff's attorney has been unable to get any cooperation from Defendant.

10. Defendant has acted willfully and wantonly and with reckless disregard to violating the Court Order in failing to timely carry out the substitution with the Plaintiff.

11. That under the particular facts and circumstances and applicable law the Plaintiff is entitled to possession of the above-described property of the estate for "use" as contemplated in 11 U.S.C. § 363.

WHEREFORE, Debtor prays that a summons be issued to Defendant, requiring Defendant to answer the allegations in this Complaint and after a hearing on the merits, the Defendant be ordered to fully execute the previously entered order within 5 days of entry of an order on this complaint, or in the alternative reimburse Plaintiff for the insurance proceeds received; that, further, a scire facias issue and Defendant be cited to appear before this Court and show cause why he should not be held in contempt of this Court for his actions and punished and fined accordingly; and for Court costs; and attorney fees; and for such all and other further relief to which this Honorable Court deems the Plaintiff to be entitled.

Respectfully submitted,

/s/ Jimmy E. McElroy #011908
Attorney for Debtor
3780 S. Mendenhall
Memphis, Tennessee 38115
(901) 363-7283

Certificate of Service

The undersigned certifies that the above complaint was mailed VIA United State Postal Service to all parties listed below on March 29, 2019.

/s/Jimmy E McElroy

Debtor

Case Trustee

Carvana LLC, P.O. Box 29018, Phoenix, AZ 85038

Carvana LLC, 1930 West Rio Salado Parkway, Tempe, AZ 85281-2207

Corporation Service Company, 2908 Poston Avenue, Nashville, TN 37203-1312

Bridgecrest Credit Company, LLC, 7300 East Hampton Avenue, Mesa, AZ 85209-3324